

AO 106A (08/18) Application for a Warrant by Telephone or Other Reliable Electronic Means

UNITED STATES DISTRICT COURT

for the
NEW MEXICOUnited States District Court
Albuquerque, New MexicoMitchell R. Elfers
Clerk of Court

In the Matter of the Search of

(Briefly describe the property to be searched
or identify the person by name and address)A GREY NISSAN SEDAN WITH
NEW MEXICO LICENSE PLATE RKC247

Case No. 22 MR 1401

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

A GREY NISSAN SEDAN WITH NEW MEXICO
LICENSE PLATE RKC247 LOCATED AT RA 457 STATE ROUTE 912, PREWITT, NM

located in the _____ District of NEW MEXICO, there is now concealed (identify the person or describe the property to be seized):

CASH, WEAPONS, KNIVES, FIREARMS, FIREARM ACCESSORIES, AMMUNITION, CELLULAR
DEVICES, RECEIPTS FOR FIREARMS, QUOTES, AND NARCOTICS

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section

44
113(2)(3)
113(2)(6)

Offense Description

ASSAULT WITH DANGEROUS WEAPON
WITH INTENT TO DO BODILY HARM
ASSAULT RESULTING IN SERIOUS BODILY INJURY

The application is based on these facts:

SEE ORAL TESTIMONY

- ☐ Continued on the attached sheet.
- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days:
18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

_____ is requested under

[Signature]
Applicant's signature
Special Agent Stan Cove
Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
telephone (specify reliable electronic means).

Date: 8/21/22 1:04 am

City and state: FARMINGTON, NM

Telephonically Approved by B. PAUL BRONDES
Judge's signature
B. PAUL BRONDES, U. S. MAGIS DARE JUDGE
Printed name and title

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO

3 No. 22-MR-1401

4 In the Matter of the Search of:

5
6 A Grey Nissan Sedan with
7 New Mexico License Plate RKC247
8 Located at RA 457, State Route 412,
9 Prewitt, New Mexico
10
11

12 TELEPHONIC APPLICATION FOR SEARCH WARRANT
13 August 21, 2022
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18 PARTIES ON TELEPHONE CALL:

19 B. Paul Briones, U.S. Magistrate Judge
20 FBI Special Agent Sean Cave
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No. 22-MR-1401
US v. In re: Oral Warrant

Telephonic Application for Search Warrant
August 21, 2022

1 SPECIAL AGENT CAVE: Judge Briones, this is
2 Sean Cave, special agent with the FBI. The recorder is
3 running.

4 JUDGE BRIONES: Okay. Thank you. Good
5 morning, Agent Cave. This is B. Paul Briones, U.S.
6 Magistrate Judge, from the city of Farmington,
7 New Mexico.

8 I understand you are seeking an oral warrant
9 this morning; is that correct?

10 SPECIAL AGENT CAVE: Yes, Judge.

11 JUDGE BRIONES: All right. We'll start by
12 me swearing you in. I will ask you to tell me the
13 facts as you know and understand them to be that will
14 serve the basis of probable cause that you think you
15 have for the search warrant that you're seeking. Then
16 we'll do some other logistics after that.

17 But to begin with, go ahead and raise -- oh,
18 and I'll also say that today is August 21, 2022, and
19 the time is 12:57 a.m.

20 Go ahead and raise your right hand.

21 Agent Cave, do you swear that the statements
22 that you will give during oral application for the
23 search warrant will be true to the best of your
24 knowledge?

25 SPECIAL AGENT CAVE: Yes, Judge.

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1 JUDGE BRIONES: All right. You go ahead and
2 tell me what facts you've come to know.

3 SPECIAL AGENT CAVE: Yes, Judge. Thank you,
4 Judge.

5 So on the evening of 8/20/2022 -- so just a
6 few hours ago -- I was notified by the Navajo Police
7 Department of a shooting in Prewitt, New Mexico. The
8 particular address of the shooting was identified to me
9 as RA 457, State Road 412, Prewitt, New Mexico.

10 The Navajo Police Department officers that I
11 am working with here, in conjunction with other law
12 enforcement officers, have identified this location as
13 on the Navajo Indian Reservation and a federal
14 territory by Indian Country designation.

15 When I arrived on scene, I was met by several
16 other law enforcement officers. Some of them were
17 New Mexico State Rangers. They identified themselves
18 as the initial responding agency to this location.

19 When they arrived, they found an individual
20 out front of the residence. He was later identified as
21 Garrick Mariano. He was calling in the responding law
22 enforcement officers into the home.

23 These New Mexico State Rangers found inside
24 the home on the floor a victim with at least a single
25 gunshot wound to his chest. During their response and

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1 emergency care of the victim, the Rangers received
2 unsolicited statements from Mariano that he, Mariano,
3 was at least holding the rifle which ultimately shot
4 the victim. The victim also made a statement to the
5 Rangers, which was also provided to me, and the
6 statement was that the victim had been shot by Mariano.

7 With consent from the victim's father, who
8 identified himself as the owner of RA 457, he
9 authorized agents and other officers consent to search
10 the residence, which concurred [sic] this evening.

11 Among many items collected at the scene was
12 an AR-15 rifle with at least one spent cartridge on the
13 floor and several other firearms. Additionally found
14 was at least a cellphone on the floor covered in a red
15 blood-like substance. Visible on the floor of the
16 residence was a sizeable collection of red blood-like
17 substances consistent with a scene where a gunshot
18 wound victim would have been.

19 Parked out front of the residence was a gray
20 Nissan sedan with license plate RKC247 with registered
21 owner Garrick Mariano. The address for his
22 registration is in Smith Lake, which is not very close
23 to Prewitt.

24 In plain view inside the vehicle, officers
25 could see a scope that is commonly used with rifles,

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1 multiple knives, a trauma-style medical kit, drug
2 paraphernalia -- drug paraphernalia, and a gun lock.

3 I am submitting this warrant to request a
4 search of the gray Nissan sedan with New Mexico license
5 plate RKC247 for the following items: Cash, weapons,
6 knives, firearms, firearms accessories, ammunition,
7 cellular devices, receipts for firearms, photographs,
8 and narcotics.

9 I am submitting this warrant orally due to
10 the exigency of having to collect evidence this
11 evening. We are unsure of whether or not our subject
12 for this investigation will have access to the vehicle
13 before we would be able to obtain a warrant through
14 normal means.

15 JUDGE BRIONES: Agent Cave, I find probable
16 cause sufficient to allow the search warrant to be
17 issued. The crime that you are investigating, I
18 deduce, would be perhaps murder; is that correct? Is
19 that the crime that you are investigating?

20 SPECIAL AGENT CAVE: Yes, Judge. I
21 apologize. It would be -- I should have stated that it
22 would be murder, although the victim at this time is
23 still alive as far as I know. So it would be assault
24 with a dangerous weapon with -- causing serious bodily
25 injury.

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1 JUDGE BRIONES: Okay. Well, I'm glad I
2 clarified that.

3 So -- and do you have the federal statute for
4 assault with a dangerous -- a deadly weapon?

5 SPECIAL AGENT CAVE: I do not, sir, but I
6 believe murder is 113(a).

7 JUDGE BRIONES: Okay. I'm thinking it may
8 be 111(a), and 113(a) is the assault.

9 I'll ask that -- and I probably will look for
10 it, or you can -- to affix that to the search warrant.
11 I didn't follow that he was still alive, the victim,
12 but -- so for the time being, it would be [INAUDIBLE]
13 assault with a dangerous weapon. Let's make sure we
14 get that cause number on the search warrant itself.

15 My direction to you is -- have you filled out
16 a search warrant, a written search warrant, that you
17 could leave at the premises?

18 SPECIAL AGENT CAVE: Yes, Judge. I have
19 filled out two copies, one to leave here and one to
20 take with me to turn in to the Court.

21 JUDGE BRIONES: Okay. I'm going to direct
22 that you have taken my stead, my position, since I
23 cannot be there nor am I able to electronically sign a
24 warrant at this time. I'll ask you to please fill it
25 out as follows: Make sure that it has the description

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1 of the vehicle, the vehicle license number as you read.

2 Just in terms of the date for you to serve
3 this search warrant by on or before -- I'll give you
4 through August 31st, 2022, with the time of day that I
5 issued the search warrant as 1:04 a.m.

6 And I am in Farmington, New Mexico, so my
7 location, not yours, on the search warrant. And put at
8 my signature line the words "Telephonically approved
9 by" and then my name, B., as in Brian, Paul Briones,
10 and my position, U.S. Magistrate Judge.

11 So that will be held and my signature will
12 appear as simply telephonically approved.

13 I will ask that you make a transcript of this
14 oral testimony for both yours and my review. Also, by
15 the next business day submit to me a copy of the
16 search warrant that you are executing or putting my
17 signature upon, my telephonic approval, together with
18 the form for the application for -- in support of the
19 search warrant setting forth the facts as you have
20 stated them to me tonight.

21 Do you understand those directions?

22 SPECIAL AGENT CAVE: Yes, Judge.

23 JUDGE BRIONES: All right. Go ahead and
24 take care of that, and then you can turn off the
25 recorder at this time.

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1 SPECIAL AGENT CAVE: Yes, Judge. I am
2 turning off the recorder.

3 [End of call.]
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REPORTER'S CERTIFICATE

I, Jenifer L. Russin, CCR #182, a Certified Court Reporter, do hereby certify that the proceedings of the above-entitled cause were transcribed by me stenographically, and that the within transcript is a true and accurate transcription of my shorthand notes.

I FURTHER CERTIFY that I am neither an attorney nor counsel for, nor related to or employed by any of the parties to the action, and that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in the action.



Jenifer L. Russin, RDR, CRR
Certified Court Reporter #182
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